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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,028	02/25/2004	Hiroki Hasegawa	58647-182	9051

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Washington, DC 20005-3096

EXAMINER

ASTORINO, MICHAEL C

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

03

Office Action Summary	Application No. 10/785,028	Applicant(s) HASEGAWA ET AL.	
	Examiner Michael C Astorino	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-11 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-11, drawn to a health care system that displays an animation, classified in class 128, subclass 920.
 - II. Claims 12-19, drawn to health care system, classified in class 600, subclass 300.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination of group II does not require the animation features of the display and the subcombination has separate utility such as the display of animation.
 3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.
 4. During a telephone conversation with Mike Messina on November 29, 2004 a provisional election was made without traverse to prosecute the invention of Group II, claims 12-19.
- Affirmation of this election must be made by applicant in replying to this Office action. Claims

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1-11 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Objections

6. Claim 12 is objected to because of the following informalities: the examiner suggests removing the quotation marks from USB. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 12, 13, 16, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Stubbs et al. US Patent Number 6,736,759 B1.

Claim 12. A health care system (see figures 2, 5, and 10), comprising:

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a living body data measurement unit (6);

a receiver unit (7); and

a personal computer (8), wherein said living body data measurement unit measures living body data, said receiver unit receives the living body data from the living body data measurement unit, said personal computer is USB connected (column 10, lines 34-64) to the receiver unit, and said receiver unit includes a wireless receiving section which is normally in standby condition and which, upon receiving the living body data from the living body data measurement unit, acts to check whether there is any problem in the data, and if no, to acquire the living body data (column 3, lines 37-64).

Claim 13. A health care system according to claim 12 in which said receiver receives the living body data from the living body data measurement unit via electromagnetic wave or infrared ray (64).

Claim 16. A health care system according to claim 12 in which in case of the pedometer used for the living body data measurement unit said living body data includes at least one of number of steps, distance, calorie consumption and amount of burned fat. (column 3, lines 6-13)

Claim 17. A health care system according to claim 12 in which in case of the sphygmomanometer used for the living body data measurement unit said living body data includes at least one of highest blood pressure, lowest blood pressure and pulse rate. (column 3,

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lines 6-13)

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 12, 14, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mault US Patent Number 6,478,736 B1 in view of Stubbs et al. US Patent Number 6,736,759 B1.

In regards to claim 12, Mault discloses a health care system (see figures 14a-b, 15 and 17), comprising:

a living body data measurement unit (sensors in figures 14a-b and 15); a receiver unit (52), and said receiver unit includes a wireless receiving section (column 36, lines 1-30); and a personal computer (84), but does not disclose said personal computer is USB connected (column 10, lines 34-64) to the receiver unit, and said receiver unit includes a wireless receiving section which is normally in standby condition and which, upon receiving the living body data from the living body data measurement unit, acts to check whether there is any problem in the data, and if no, to acquire the living body data (column 3, lines 37-64). However, Stubbs et al., a reference in an analogous art teaches a personal computer is USB connected (column 10, lines 34-64) to the receiver unit, and said receiver unit includes a wireless receiving section which is normally in standby condition and which, upon receiving the living body data from the living

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body data measurement unit, acts to check whether there is any problem in the data, and if no, to acquire the living body data (column 3, lines 37-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the communications between the PC and the receiving unit of Mault in view of the same Stubbs et al., since Stubbs et al. states the USB as an alternative to a wireless or wired connection and monitors the user of dangerous alert conditions while exercising/physically training the user's body.

Claim 14. A health care system according to claim 12 in which said living body data measurement unit includes at least one of a body fat meter (Mault, element number 76), a pedometer (Mault, element number 60, column 45-57), and a sphygmomanometer.

Claim 15. A health care system according to claim 12 in which in case of the body fat meter used for the living body data measurement unit said living body data includes at least one of body weight, body fat rate, body fat mass, basal metabolism, total energy consumption and visceral fat level. (Mault, element number 60, column 45-57, and element number 72)

Claim 18. A health care system according to claim 12 in which in case of the body fat meter or the sphygmomanometer used for the living body data measurement unit it sends the living body data to the receiver unit in frame synchronized manner upon depressing a data transmission button after measurement is done. (inherent via PDA, column 6, lines 1-30)

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11. Claims 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mault US Patent Number 6,478,736 B1 and Stubbs et al. US Patent Number 6,736,759 B1, in view of Sutton US Patent Number 5,117,444 A.

Mault discloses a pedometer (element number 60, column 9, lines 45-57), but does not disclose the means of which the pedometer functions. However, Sutton et al. a reference in an analogous art discloses an alternative pedometer which includes “the pedometer used for the living body data measurement unit, upon placing the pedometer including a reed switch on the receiver unit including a permanent magnet, then the reed switch is turned ON so that the pedometer sends the living body data to the receiver unit in stepping manner”, (figure 5, element numbers 10/50, and 62). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the pedometer functionality of Sutton et al. in view of the pedometer of Mault and Stubbs et al., since Sutton et al. states in the abstract that the pedometer provides maximum calibration accuracy regardless of operational or stride artifact variations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C Astorino whose telephone number is 703-306-9067. The examiner can normally be reached on Monday-Friday, 10:00AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (703) 308-3130. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Michael Astorino', with a long horizontal stroke extending to the right.

Michael Astorino
November 29, 2004